

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RONALD H. VAN DEN HEUVEL,
individually, and as Trustee of
The Ronald H Van Den Heuvel
Irrevocable Trust dated July 22, 2003,
KELLY YESSMAN VAN DEN HEUVEL,
Trustee of the YK Irrevocable Trust
dated November 1, 2010,
PARTNERS CONCEPTS DEVELOPMENT, INC.,
and VHC, INC.,

Plaintiffs,

v.

Case No. 12-C-0327

AI CREDIT CORPORATION,
FIRST INSURANCE FINANCING CORP.,
ALLIANZ LIFE INSURANCE COMPANY
OF NORTH AMERICA,
LIBBY GRANT,
JOHN HANCOCK LIFE INSURANCE COMPANY,
LIFE & LEGACY GROUP LLC,
PACIFIC LIFE INSURANCE COMPANY
PHOENIX INSURANCE COMPANY, and
SUN LIFE ASSURANCE COMPANY OF CANADA,

Defendants.

**DECISION AND ORDER GRANTING DEFENDANTS LIFE & LEGACY GROUP, LLC
AND LIBBY GRANT'S MOTION TO COMPEL**

Defendants Life & Legacy Group, LLC and Libby Grant have filed an expedited Civil L.R. 7(h) motion to compel the plaintiffs to provide answers to interrogatories and to produce all documents responsive to their requests for production pursuant to Fed. R. Civ. P. 37(a) and Civil L.R. 37. Defendants served the plaintiffs with a set of interrogatories and requests for production

on February 26, 2013. Having received no response, Defendants sent two letters to counsel for the Plaintiffs on April 4, 2013 and April 18, 2013, requesting that Plaintiffs respond to the discovery requests and stating that Defendants had taken the position that Plaintiffs had waived all objections to the requests by virtue of their late response. The Defendants received no response to either letter, but the parties spoke via telephone on April 24, 2013. At that time, Plaintiffs' counsel indicated that they were aware of the discovery requests and asked for an extension of time until May 17, 2013 to respond. Defendants agreed to the extension but stated again that Plaintiffs had waived any objections to the discovery requests based on the failure to timely respond.

After Plaintiffs still failed to provide any response or to otherwise contact Defendants to request a further extension, Defendants were forced to file a motion to compel. Defendants seek an order compelling Plaintiffs to produce responses to the outstanding document requests and interrogatories as well as ordering Plaintiffs to pay the defendants' attorneys fees and costs incurred in preparing and presenting the motion to compel. There has been no response to the motion to compel, and the time for filing such a response has long since expired.

Based on the foregoing, the Defendants' motion will be granted. Because Plaintiffs utterly failed to respond to Defendants' discovery requests, any objections they may have had are waived because their responses were not timely filed. *See* Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2). Plaintiffs are ordered to serve responses to the Defendants' document requests and interrogatories within 14 days of the date of this order. Furthermore, due to Plaintiffs' delinquent discovery responses, and in light of the fact that they have made no attempt to otherwise justify their untimely responses or to provide an explanation for their actions, an award of costs is just and appropriate. *See* Fed. R. Civ. P. 37(a)(5) ("If the motion is granted . . . the court must, after giving an opportunity

to be heard, require the party . . . whose conduct necessitated the motion . . . to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees."'). Accordingly, Plaintiffs are ordered to pay Defendants Life & Legacy Group, LLC and Libby Grant's costs and attorneys fees associated with bringing their motion to compel.

THEREFORE, IT IS ORDERED that Defendants' motion to compel (ECF No. 103) is **GRANTED**. Plaintiffs are ordered to serve responses to the Defendants' document requests and interrogatories **within 14 days** of the date of this order.

IT IS ALSO ORDERED that Plaintiffs shall pay Defendants' reasonable costs and attorneys fees associated with bringing the motion to compel.

Dated this 11th day of June, 2013.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court